

REMARKS

Claims 1-3, 5, and 13-46 were pending in the application, prior to the present amendment. Claims 1-3, 5, 13, 15, 16, 18, and 23 were rejected under 35 U.S.C. § 102(b), and claims 14, 17, 19-22, 24-43, 45, and 46 were rejected under 35 U.S.C. § 103(a).

Claim 44, which specifies a method of inducing an insulin sensitizing or insulin mimetic effect in a tissue of a patient having hyperinsulinemia, was allowed. In the present amendment, claim 44 has been canceled and claim 1 has been amended to correspond to canceled claim 44. All of the remaining claims either depend from amended claim 1 or have been amended to specify hyperinsulinemia, consistent allowance of that indication. No new matter has been added by the amendments.

In view of the amendments, Applicants submit that the remaining rejections in this case are now moot, and therefore may be withdrawn. This notwithstanding, Applicants request clarification as to the rejection of claim 46. In particular, this claim was rejected for obviousness but, similar to claim 44, specifies treatment of the allowed indication (hyperinsulinemia). Because of this, Applicants submit that claim 46, similar to the amended claims specifying treatment of hyperinsulinemia (and original claim 44), should also be allowed.

Applicants also note that they reserve the right to pursue the original or similar claims in future, continuing applications.

Applicants submit that the claims are in condition for allowance, and such action is respectfully requested. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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